

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

MICHAEL BLAINE ARDIZONE

PETITIONER

V.

CIVIL ACTION NO. 5:23-cv-58-DCB-LGI

WARDEN HERBERT YOUNG

RESPONDENT

ORDER

This MATTER is before the Court on Magistrate Judge Isaac's Report and Recommendation ("Report") [ECF No. 20], concerning Michael Blaine Ardizone ("Petitioner")'s petition for writ of habeas corpus relief under 28 U.S.C. § 2241. The Report was entered on May 31, 2024, and objections to it were due by June 14, 2024. Neither party has filed an objection, and the time to do so has elapsed.

Judge Isaac recommends that the matter be dismissed as moot because Petitioner sought and was granted immediate release on bond pending trial. [ECF No. 20] (citing McNeil v. Mason, 2020 WL 898513, at \*1 (S.D. Miss. Jan. 29, 2020)). Even if the relief requested could be construed as a habeas petition under § 2241, the Magistrate Judge shows that the matter should be dismissed for Petitioner's failure to state a claim upon which relief can be granted and for failure to exhaust state remedies. Id. at 4. Specifically, Judge Isaac shows that Petitioner has not presented

"special circumstances" warranting pretrial, pre-exhaustion relief during the state prosecution against him. Id.

Where no party has objected to a Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review of it. 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made."). Where there are no objections, the Court applies the "clearly erroneous, abuse of discretion and contrary to law" standard of review to the Report. United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989).

Accordingly, the Court agrees with Judge Isaac's recommendation. The Report [ECF No. 20] is hereby ADOPTED and Petitioner's claims against Warden Herbert Young are DISMISSED WITHOUT PREJUDICE.

A Final Judgment shall be entered of even date herewith pursuant to Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED, this 7th day of August, 2024.

/s/ David Bramlette  
DAVID C. BRAMLETTE III  
UNITED STATES DISTRICT JUDGE